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April 9, 2010

**Via Electronic Mail and U.S. Mail**

Michael S. Johnson, Esq.  
Assistant Attorney General  
1594 West North Temple #300  
Salt Lake City, Utah 84116

Dear Mr. Johnson:

Thank you for the letter dated April 2, 2010, clarifying the statements of Jean Semborski, a member of the Utah Board of Oil, Gas and Mining, at the Board's March 24, 2010, hearing of Docket No. 2009-019, Cause No. C/025/0005, in which I am one of Petitioners' counsel. Your letter also inquires about Petitioners' position on the participation of Board member Kelly Payne in further proceedings.

Petitioners appreciate your clarification of Ms. Semborski's statements. Petitioners had understood Ms. Semborski to disclose her husband's employment by a corporation that conducts coal mining operations, but to deny in response to my specific inquiry to Board members that she had any financial interest in coal mining operations conducted in Utah. Petitioners took Ms. Semborski's statements to mean that her husband is employed by a corporation that does not conduct coal mining operations in Utah, but does conduct such operations elsewhere. On that basis, and in light of similar denials of financial interest in Utah coal mining operations by each other member of the Board, Petitioners withdrew their motion that each Board members either certify that he or she has no financial interest in any Utah coal mining operation or else recuse himself or herself from further proceedings on Petitioners' request for agency action.

Your clarification of Ms. Semborski's indirect financial interest in Utah coal mining operations places her squarely within the ambit of 30 C.F.R. § 705.4(d), as Petitioners interpret that regulation. Because Ms. Semborski's husband is employed by a corporation that conducts coal mining operations in Utah, the Board's decision in Docket No. 2009-019 "may affect" Ms. Semborski's indirect financial interests. As Petitioners interpret the regulation, she has a duty to recuse herself from further proceedings concerning the Coal Hollow mining permit.

As you correctly note, "the Board has a duty to analyze on its own any potential conflicts of interest." Petitioners request that Ms. Semborski and the Board conduct the required analysis in light of Petitioners' statement of position and inform the parties whether Ms. Semborski elects to recuse herself pursuant to 30 C.F.R. § 705.4(d).

**FILED**

APR 09 2010

SECRETARY, BOARD OF  
OIL, GAS & MINING

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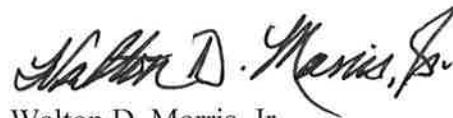
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ATTORNEY GENERAL  
Natural Resources Division

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Petitioners acknowledge board member Kelly Payne's prior disclosure of his business relationships with Eric Petersen, who is a witness for Alton Coal Development, LLC, in the Coal Hollow proceedings. Relying on Mr. Payne's assurance that this prior business relationships with Mr. Petersen will not affect his review of the issues that Petitioners raise in the proceeding, Petitioners do not request Mr. Payne's recusal.

Sincerely,

A handwritten signature in black ink, appearing to read "Walton D. Morris, Jr.", with a stylized flourish at the end.

Walton D. Morris, Jr.

Copies (via electronic mail only)  
to Counsel of Record